

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

CARTER J. MAGLOIRE,

Plaintiff,

v.

MAGDALIA TORRES,

Defendant.

Civil No. 06-1236(JAF)

O R D E R

Pro-se Plaintiff Carter J. Magloire filed this Bivens action against Defendant Magdalia Torres, a Bureau of Prisons ("BOP") disciplinary hearing officer, on March 7, 2006, alleging that she violated BOP regulations by finding him guilty of being insolent to a prison officer and imposing sanctions upon him without allowing him to call witnesses in his defense at the disciplinary hearing. Docket Document No. 1.

On July 17, 2006, we issued an order directing Magloire to state to the court within thirty days what administrative remedies he sought prior to filing his Bivens action so that we might know whether his action might proceed before us. Docket Document No. 6. The Prison Litigation and Reform Act (PLRA) states that "[n]o action shall be brought with respect to prison conditions under [§ 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a) (2003 & Supp. 2005).

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1           Magloire never responded to our order, and Torres moved to  
2           dismiss on August 24, 2006. Docket Document No. 7-1. Appended to  
3           Torres' motion was a sworn declaration from José A. Rivera, an  
4           Attorney Advisor for the Metropolitan Detention Center in Guaynabo,  
5           Puerto Rico, where Magloire is incarcerated, averring that Magloire  
6           has not exhausted the BOP's administrative remedy procedures. Docket  
7           Document No. 7-5.

8           Magloire's failure to respond to our clear order asking whether  
9           he had exhausted administrative remedies before he filed the present  
10          action in federal court leaves us no choice but to dismiss the instant  
11          action.

12          We also take this opportunity to note that Torres' motion to  
13          dismiss clearly outlines what the BOP's Administrative Remedy  
14          Procedure, codified at 28 C.F.R. § 542.10 et seq., is. Docket  
15          Document No. 7-1. Should Magloire desire to pursue his complaint  
16          further, following the necessary steps, Torres' motion to dismiss  
17          offers a useful primer as to how he should begin.

18          In accordance with the foregoing, we **GRANT** Torres' motion to  
19          dismiss.

20               **IT IS SO ORDERED.**

21          San Juan, Puerto Rico, this 28<sup>th</sup> day of September, 2006.

22                               S/José Antonio Fusté  
23                               JOSE ANTONIO FUSTE  
24                               Chief U.S. District Judge